

July 24, 1989

Ms. Yvonne Fortenberry, Director
Department of Planning and Urban Development
116 Meeting Street
Charleston, S.C. 29401

Dear Ms. Fortenberry:

The Committee on Ways and Means at its meeting July 18, 1989 approved agreements with South Carolina Electric and Gas Company and Berkeley Electric Cooperative, Inc. concerning the removal of trees within the City boundaries of Charleston.

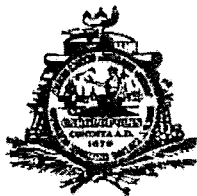
City Council at its July 18th meeting authorized the execution of the necessary instruments. I am enclosing a copy of each agreement for your files and original copies for your distribution to SCE&G and Berkeley Electric Cooperative.

Sincerely Yours,

MARY R. WRIXON
Clerk of Council

MRW:dtg
Enclosures (4)

cc: Mr. Lee Batchelder, Zoning Administrator, Department of
Planning and Urban Development
Mr. James W. Etheredge, Director, Administrative Services



JOSEPH P. RILEY, JR.
Mayor

City of Charleston

YVONNE FORTENBERRY
Director

Department of Planning and Urban Development

CITY OF CHARLESTON

MEMORANDUM

JUL 13 1989

CLERK OF COUNCIL

TO: Joseph P. Riley, Jr., Mayor
City Councilmembers

FROM: Lee Batchelder, Zoning Administrator *LB*

SUBJECT: Tree Protection Agreement with South Carolina Electric
and Gas Company and Berkeley Electric Cooperative

DATE: July 12, 1989

Attached are copies of the City of Charleston Tree Protection Agreements with South Carolina Electric and Gas Company and Berkeley Electric Cooperative. Signed copies of the agreement will be presented to you at the July 18, 1989, City Council meeting for ratification.

These agreements were prepared by the Department of Planning and Urban Development to satisfy the requirements for granting an exemption from the tree protection ordinance to utility companies, electric suppliers and governmental agencies. Both agreements are identical to maintain consistency in enforcement. Specifically, each agreement does the following:

- a. Establishes guidelines for determining the functional value of a tree;
- b. Requires that city approval be obtained prior to removing grand trees (all trees 24 inches or greater in diameter at four and one-half feet above grade, except for pine trees);
- c. Sets forth procedures for obtaining permits, and;
- d. Provides guidelines for mitigating the impacts of tree removal.

MEMORANDUM

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The tree protection ordinance was passed by City Council last November. Since then, South Carolina Electric and Gas Company, Berkeley Electric Cooperative and city staff have worked together under a verbal agreement which is very similar to the written agreement before you. We think that these are significant agreements because the agencies signing them are acknowledging the importance of trees and agreeing to work with the City to preserve trees to improve the quality of life in Charleston. Therefore, I urge your support in ratifying those agreements.

geh
j/BOASD

Attachment

STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

AGREEMENT

THIS AGREEMENT entered into this 28th day of July, 1989, by and between the City of Charleston, South Carolina, a municipal corporation organized and existing under the laws of the State of South Carolina (herein the City), and South Carolina Electric and Gas Company (herein S.C.E. and G.).

W I T N E S S E T H:

WHEREAS, trees are an important natural, economic and aesthetic resource of the City of Charleston; and

WHEREAS, the Charleston City Council has adopted a tree protection ordinance; and

WHEREAS, South Carolina Electric and Gas Company is responsible for providing electric and natural gas service in a timely, safe, efficient, economical and reliable manner and must, therefore, substantially alter or remove trees; and

WHEREAS, for utility companies, electric suppliers, natural gas suppliers, telecommunication companies and governmental agencies to be exempt from the provisions of the tree protection ordinance, Article 16, Section 54-109, Zoning Ordinance, they must execute agreements with the City.

NOW, THEREFORE, BE IT RESOLVED, that the following Agreement is made between South Carolina Electric and Gas Company and the City of Charleston concerning the removal of trees as specified herein within the city boundaries of Charleston.

I. Acknowledgement:

It is acknowledged by each party that the protection of trees is important for preserving and improving the quality of life in Charleston. It is further acknowledge that economic and aesthetic benefits of trees shall be considered, along with other factors, such as those of economy, public safety and service reliability, when the design, construction or maintenance of utility lines and facilities are being undertaken. This Agreement is intended to govern the conduct of the parties with respect to trees along existing and future utility lines and with respect to the construction of other facilities.

II. Definitions:

City: The City of Charleston. For the purposes of this agreement, the Department of Planning and Urban Development shall be the lead agency for issuing approvals as stipulated under the agreement; however other city departments including the Department of Parks, Department of Public Service and Department of Traffic and Transportation may be consulted depending on the nature of the proposed construction.

Diameter Breast Height (DBH): The total diameter, in inches, of a tree trunk or trunks, in the case of trees with multiple trunks, measured four and one-half feet (4½) above

Utility Lines and Facilities: Lands, structures and any other facilities used in the generation or distribution of electricity, natural gas, telecommunications, water and sewage and lands, structures and any other facilities used for public transportation.

III. Determining the Functional Value of Trees:

1) As a part of its planning process, South Carolina Electric and Gas agrees to consider trees and their functional value, as a material factor in the layout, design and construction of utility lines and facilities. To determine the functional value of trees, accepted arboriculture practices shall be used. Generally, the criteria include the following.

- (a) Size. Grand trees are the most important trees and shall be protected whenever possible, consistent with the responsibility of South Carolina Electric and Gas Company to maintain safe clearance.
- (b) Condition. In determining the condition of a tree, its annual growth rate, the presence of decay, its structural condition, the presence or absence of insects or disease, factors supporting its survival and its life expectancy shall be considered. Trees in good condition shall be preserved to the greatest extent feasible, consistent with the responsibility of South Carolina Electric and Gas Company to maintain safe clearance.
- (c) Location. Trees located within view of existing or

be preserved to the greatest extent feasible,
consistent with the responsibility of South Carolina
Electric and Gas Company to maintain safe clearance.

- (d) Species. Trees considered as having a high value
relative to other species include all species of oak,
magnolia, bay, holly and beech trees, and such trees
shall be preserved to the greatest extent feasible,
consistent with the responsibility of South Carolina
Electric and Gas Company to maintain safe clearance.

- 2) At the request of the City, South Carolina Electric and Gas
Company shall document efforts undertaken to preserve trees
or document its reasons for not preserving trees.

IV. Standards for Protecting Trees:

1) Design Guidelines - Grand Trees:

- (a) The removal, cutting or trimming of grand trees shall
be minimized to the greatest extent possible so as not
to frustrate the goal of tree protection, but at the
same time, not to substantially interfere with the
intended purpose of construction or maintenance. In
any event, techniques used in trimming trees shall
adhere to accepted arboricultural practices.
- (b) Prior to removing grand trees, the Tree Ordinance
Enforcement Officer or other designated official shall
be notified either verbally, or in writing, of the
number, location, size and species of grand trees

upon certain mitigation steps being undertaken. If the City denies a request, it must give the reasons, in writing, for its denial.

2) Design Guidelines - Major Construction:

- (a) For the purposes of this section, the construction of electric transmission lines, gas lines, electric substations, water or sewer mains, pump stations, water towers, or highways shall be considered major construction.
- (b) Whenever major construction is proposed within the City of Charleston, or whenever work plans involving major construction are being prepared, the City (Department of Planning and Urban Development) shall be consulted with regard to the impact thereof on grand trees, on areas containing highly valuable trees as defined in Section III of this Agreement, and on planned public improvements. Consultation with the City shall take place as early as is feasible in the planning and design phase and prior to finalization of utility alignments and locations.
- (c) The City is only authorized to regulate the removal of grand trees.
- (d) To assure compliance with this section, no major construction shall be undertaken without written approval having been issued by the City.

V. Mitigation:

Landscaping and other measures are recognized as valuable techniques to help mitigate the adverse impacts of removing trees for construction or maintenance. Mitigation may be required as a condition for approving the removal of grand trees.

Mitigation is recognized to be especially important where planned utility lines and facilities will cross, or run adjacent to, planned or existing public rights-of-way or other public lands, where planned facilities will be within easy view from planned or existing public rights-of-way, or where the removal of a grand tree or trees will result in a substantial change in the appearance of landscaping along public rights-of-way or other public lands.

Mitigation includes, but is not limited to, the planting of shrubs or understory trees to screen views or disrupt the uniformity along cleared utility rights-of-way, directional changes in the alignment of utilities at road crossings to disrupt straight views along cleared rights-of-way, and the bridging of lines over, or the tunneling of lines under, grand trees.

VI. Emergency Provisions

In times of emergency, grand trees may be removed without prior approval of the City, consistent with the responsibility of South Carolina Electric and Gas Company to maintain safe clearance around utility lines and facilities. South Carolina Electric and Gas Company agrees to file a report with the Department of Planning and Urban Development indicating the number and location of grand trees removed and the nature of the emergency, within five business days following such removal. In times of major emergencies caused by disasters and acts of nature, the report filing period may be extended.

VII. Variances

Requests for variances from staff decisions may be made to the Board of Adjustment--Site Design through the Department of Planning and Urban Development within five (5) business days of the decision having been rendered.

VIII. Term

The term of this Agreement shall be for a period of one (1) year, at which time it will be reviewed by each party. Upon the mutual consent of each party, it will be renewed for such term as the parties may at that time designate.

IX. Breach of Agreement

may be reinstated if the City determines that acceptable mitigation or other measures have been undertaken.

Signing this agreement shall not constitute a waiver by South Carolina Electric and Gas of any exemption to the Tree Protection Ordinance to which it might be entitled by operation of the law.

IN WITNESS WHEREOF, the parties have set their hands and seals as of this day and year as aforewritten.

WITNESS:

City of Charleston

Jeanne M. Jeffcoat
Debra Matthews

BY: _____

ITS: Mayer

ATTEST:

Mary B. Wrixon
Clerk of Council

WITNESS

South Carolina Electric and Gas
Company

Margaret T. Seidler

BK: [Signature]

ITS: V.P. Castelejo Relations